

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8523 of 2020

Arising Out of PS. Case No.-262 Year-2019 Thana- GAIGHAT District- Muzaffarpur

Sanjay Rai @ Sanjay Kumar S/o Nageshwar Rai Resident of Village-
Bhagwatpur, P.S.- Gaighat, O/P Benibad, Distt- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Devendra Kumar

For the Opposite Party/s : Mr.Sucheta Yadav

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 03-03-2020 Heard learned Counsel for the petitioner and the learned
APP for the State. P

Petitioner apprehends arrest in Gaighat PS Case No. 262
of 2019 registered under Sections 30(a) of Bihar Prohibition and
Excise Act, 2016 IPC.

Having no criminal antecedent, it is submitted by
petitioner's counsel that he is apprehending arrest on account of
recovery of 17.64 litres of illicit liquor from the house of Nathuni
Yadav. Petitioner's name has surfaced on account of implication by
said Nathuni Yadav that he has got the liquor from the petitioner.

Submission is that neither recovery is from the premises
owned by the petitioner nor he was present at the spot. There is no
recovery of any incriminating material against the petitioner even as
per allegations made in the FIR. False implication of the petitioner
also cannot be ruled out. It is submitted that in the circumstances no
offence under the Bihar Prohibition and Excise Act is made out.

Learned APP appearing for the State has opposed the
prayer for anticipatory bail, referring to the provisions contained in
Section 76(2) of the Bihar Prohibition and Excise Act and submitted



that pre-arrest bail would not be maintainable.

This Court is conscious of the decision of the Full Bench in the case of *Ram Vinay Yadav vs. State of Bihar* reported in *2019(2) PLJR 1089*. Having regard to the law laid down in the said judgment and the submissions advanced on behalf of the petitioner, this Court for the limited purpose for grant of anticipatory bail is inclined to accept the submission of Counsel for the petitioner.

Considering the aforesaid submissions as also the facts and circumstances of the case, prayer for anticipatory bail of the petitioners is allowed.

In the event of arrest or surrender before the court below within four weeks from today, let the petitioners above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Special Judge, Excise, Muzaffarpur in Gaighat PS Case No. 262 of 2019 subject to all conditions as laid down in Section 438(2) of the Criminal Procedure Code as also subject to the following conditions:-

(I) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date in the trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled.

(Madhuresh Prasad, J)

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